

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE ENROLLED ACT No. 304

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-9-27-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.5. (a) A municipal or sanitary district drain maintenance fund is established for each drain:**

- (1) that is subject to assessments by the board for periodic maintenance and repair; and**
- (2) jurisdiction over which is transferred by the board to a municipality or sanitary district under section 20 of this chapter.**

(b) Except as provided in subsections (c) and (d), on or after the date the board transfers jurisdiction over a drain to the municipality or sanitary district, the county treasurer shall transfer the following to the municipal or sanitary district drain maintenance fund established under this section:

- (1) The balance of the maintenance fund established under section 44 of this chapter.**
- (2) Except as provided in subsection (e), any assessments for periodic maintenance of the drain that:**
 - (A) were imposed before the date on which the board transfers jurisdiction of the drain; and**
 - (B) are collected after the date on which the board transfers jurisdiction of the drain.**



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(c) Except as provided in subsection (d), if the board transfers jurisdiction over part of a drain to a municipality or sanitary district, the county treasurer shall transfer under subsection (b):

(1) the part of the balance in the maintenance fund established under section 44 of this chapter that bears the same proportion to the balance in the fund that the length of the part of the drain transferred to the municipality or sanitary district bears to the total length of the drain; and

(2) except as provided in subsection (e), the proportion determined under subdivision (1) of any assessments for periodic maintenance of the drain that:

(A) were imposed before the date on which the board transfers jurisdiction of part of the drain; and

(B) are collected after the date on which the board transfers jurisdiction of part of the drain.

(d) The board and a municipality or sanitary district to which jurisdiction over part of a drain is transferred may agree in writing to an apportionment of the maintenance fund and outstanding assessments different from the apportionment under subsection (c) based on disproportionate maintenance requirements between the part of the drain transferred and the part remaining under the jurisdiction of the board. Subject to subsection (e), a county treasurer who receives a written agreement under this subsection shall transfer under subsection (b) the amounts specified in the agreement.

(e) If payment for maintenance work for a drain was made from the general drain improvement fund under section 45 of this chapter, the county treasurer shall transfer all or part of the assessment described in subsection (b)(2) to the general drain improvement fund to reimburse the fund for all or part of the cost of the maintenance work.

(f) The expenses of a municipal or sanitary district drain maintenance fund established by subsection (a) shall be paid from the fund. The municipality or sanitary district to which jurisdiction over a drain is transferred shall deposit money in the fund established for the drain under subsection (a) in accordance with IC 5-13-6. Any interest earned by the fund shall be credited to the fund. Any balance remaining in the fund at the end of a fiscal year shall be carried over in the fund for the following fiscal year.

(g) A municipal or sanitary district drain maintenance fund established under subsection (a) is subject to the use of the municipality or the sanitary district for the necessary or proper

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repair, maintenance, study, or evaluation of the particular drain or combination of drains for which the fund was established whenever the municipality or sanitary district finds that it is necessary. Except as provided in subsection (h), payment for all the maintenance work for a drain or combination of drains shall be made out of the municipal or sanitary district drain maintenance fund established for the drain or combination of drains under subsection (a).

(h) If the balance of a maintenance fund is not sufficient to pay for all of the maintenance work, the municipality or sanitary district shall pay for any deficiency from the funds used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund. A drain maintenance fund shall close upon payment of all money in the fund.

(i) If the amount of funds on deposit in a municipal or sanitary district drain maintenance fund is less than five hundred dollars (\$500), the balance of the municipal or sanitary district drain maintenance fund may be transferred to the fund used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund, and the drain maintenance fund shall be closed.

SECTION 2. IC 36-9-27-20.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20.6. If jurisdiction over a drain is transferred by the board to a municipality or sanitary district under section 20 of this chapter, the municipality or sanitary district has, with respect to that drain, the same right of entry and right-of-way powers over and upon private land that are given to the county surveyor or drainage board under section 33 of this chapter.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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